

## SUBCHAPTER C—PERMANENT REGULATORY PROGRAMS FOR NON-FEDERAL AND NON-INDIAN LANDS

### PART 730—GENERAL REQUIREMENTS

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AUTHORITY: Secs. 501(b), 503, 504, 505 and 521 of Pub. L. 95-87 (30 U.S.C. 1251(b), 1253, 1254, 1255 and 1271).

#### § 730.1 Scope.

This subchapter sets forth standards and procedures for the submission, review, and approval or disapproval of State programs, for coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal lands. In addition it sets forth criteria and procedures for amending approved programs, substituting Federal enforcement for State enforcement of State programs, and withdrawing approval of those programs not adequately implemented or maintained. Requirements are also included for State program grants and for the adoption of a Federal program in a State which does not have a State program or which has failed to implement, enforce or maintain an approved State program consistent with this subchapter.

[44 FR 15323, Mar. 13, 1979]

#### § 730.5 Definitions.

As used in this subchapter unless otherwise indicated *Consistent with* and *in accordance with* mean:

(a) With regard to the Act, the State laws and regulations are no less stringent than, meet the minimum requirements of and include all applicable provisions of the Act.

(b) With regard to the Secretary's regulations, the State laws and regulations are no less effective than the Secretary's regulations in meeting the requirements of the Act.

[44 FR 15323, Mar. 13, 1979, as amended at 46 FR 53384, Oct. 28, 1981]

#### § 730.11 Inconsistent and more stringent State laws and regulations.

(a) No State law or regulation shall be superseded by any provision of the Act or the regulations of this chapter, except to the extent that the State law or regulation is inconsistent with, or precludes implementation of, requirements of the Act or this chapter. The Director shall publish a notice of proposed action in the FEDERAL REGISTER setting forth the text or a summary of any State law or regulation initially determined by him to be inconsistent with the Act or this chapter. The notice shall provide 30 days for public comment. Following the close of the public comment period, the Director shall make a final determination which shall be published in the FEDERAL REGISTER.

(b) Any State law or regulation which provides for more stringent land use and environmental controls and regulations of coal exploration and surface coal mining and reclamation operations than do the provisions of the Act and this chapter, or which provides for the control and regulation of coal exploration and surface coal mining and reclamation operations for which no provision is contained in the Act or this chapter, shall not be construed to be inconsistent with the Act or this chapter.

[44 FR 15323, Mar. 13, 1979, as amended at 47 FR 26364, June 17, 1982]

#### § 730.12 Requirements for regulatory programs in States.

(a) Not later than January 3, 1981, for each State in which coal exploration and surface coal mining and reclamation operations are or may be conducted on non-Federal and non-Indian land, either a State program or a Federal program adopted under this subchapter shall be in effect. However, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State program, or any part thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction

shall not result in the imposition of a Federal program for regulation of surface coal mining and reclamation operations. Regulation of surface coal mining and reclamation operations covered or to be covered by the State program subject to an injunction shall be conducted by the State pursuant to section 502 of the Act until such time as the injunction terminates or for one year from issuance of the injunction, whichever is shorter, at which time the requirements of sections 503 and 504 shall again be fully applicable. States in which no coal exploration or surface coal mining and reclamation operations are in existence or planned on January 3, 1981, on non-Federal and non-Indian lands but in which such exploration or operations may occur at some later date, shall have a State or Federal program in effect before commencement of any such exploration or operations.

(b) The State shall notify the Director of the issuance of any injunction which prevents or prohibits the State from preparing, submitting or enforcing a State program or portion thereof.

[44 FR 15323, Mar. 13, 1979, as amended at 45 FR 33927, May 20, 1980]

## PART 731—SUBMISSION OF STATE PROGRAMS

Sec.

731.1 Scope.

731.12 Submission of State programs.

731.14 Content requirements for program submissions.

AUTHORITY: 30 U.S.C. 1201 *et seq.* and 16 U.S.C. 470 *et seq.*

### § 731.1 Scope.

This part establishes standards and procedures for the preparation and submission of State programs.

[44 FR 15324, Mar. 13, 1979]

### § 731.12 Submission of State programs.

Each State that wishes to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within its boundaries shall submit three copies of a proposed program to the Director. A State may submit a proposed program at any time. The State shall retain suf-

ficient copies of the program for public inspection under § 732.11(a).

[47 FR 26364, June 17, 1982]

### § 731.14 Content requirements for program submissions.

The program shall demonstrate that the State has the capability of carrying out the provisions of the Act and this chapter and achieving their purposes by providing a complete description of the system for implementing, administering and enforcing a State program including, at a minimum—

(a) A copy of the State laws in effect at the time of submission of the program which regulate coal exploration and surface coal mining and reclamation operations, a copy of any State regulations promulgated to implement and enforce those State laws and any amendments to State laws and regulations which are in the process of enactment and have been determined by the State to be essential to allow for program approval;

(b) Copies of other State laws and regulations directly affecting the regulation of coal exploration and surface coal mining and reclamation operations, and amendments to such other laws or regulations which affect the regulation of coal exploration and surface coal mining and reclamation operations which are being considered or are pending;

(c)(1) A legal opinion from the Attorney General of the State or chief legal officer of the State regulatory authority stating that the State has the legal authority under existing laws and regulations, or will have authority under amendments to laws and regulations which are in the process of enactment, to implement, administer and enforce the program and to regulate coal exploration and surface coal mining and reclamation operations in accordance with the Act and consistent with this chapter.

(2) A section-by-section comparison of the State's law and regulations and amendments which are in the process of enactment with the Act and this chapter, explaining any differences and their legal effect;

(d) A copy of the legal document which designates one State agency as